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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,017	12/20/2000	Shi-Tron Lin	6484.0073	4272
22852	7590	04/29/2003		EXAMINER
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20005				MEIER, STEPHEN D
			ART UNIT	PAPER NUMBER
			2822	

DATE MAILED: 04/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/740,017	LIN, SHI-TRON
	Examiner	Art Unit
	Stephen D. Meier	2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-103 is/are pending in the application.
 - 4a) Of the above claim(s) 20-100 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-19 and 101-103 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) Interview Summary (PTO-413) Paper No(s) _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

Proposal to change draings of 3-18-03 has been approved.

Claims 1-19 and 101-103 are rejected under 35 U.S.C. 112, **first and second** paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The critical feature, as amended, is "at least one island formed in the first diffusion region, the at least one island being positioned non symetrically with respect to a symmetry axis, wherein said symmetry axis extending from a midpoint of the channel region perpendicular to the channel region and in parallel to a surface of the semiconductor layer." **The newly amended subject matter does not solve the issues and adds issues under second paragraph.** Specifically, the phrase "perpendicular to the channel region" is indefinite, since the channel region has no direction and likewise a midpoint of the channel region is somewhat questionable since no boundaries have been defined for a channel region. Typically, detail to this extreme is not necessary, however, since Applicant is trying to distinguish over a prior art that is very similar, the exact layout structure is necessary.

Applicant argues on page 5 that the claims should be intepreted to correspond to description in the specification page 12, or more specifically to correspond to island regions 604 which has an end extending over a left side of the island on one side of the gate and the right side of the island on the opposite side of the gate. Applicant implies

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that this is "non-symmetrical" For refererence, the Examiner cites Webster's II New Riverside Dictionary's definition of symmetry, which is "Correspondence of form and arrangement of parts on opposite sides of a boundary, as a plane or line or around a point or axis." Under this definition, the regions 604 are symmetrical. Although Applicant's arguments are not commensurate in scope with the claims, this discussion brings up another problem with the claim language. The claims recite that "the island formed in the first diffusion region." (emphasis added). Applicant's arguments hinge on part of the island region being non-symmetrical based upon a part that is not actually in the diffusion region. The language of claim 102 is not anymore helpful. The phrase "a mirror-symmetry plane perpendicular to the semiconductor layer" is vague and indefinite. For these reasons, the rejection over 112, first paragraph is maintained, and the rejection over 112, second paragraph is entered.

Applicant is again reminded that since this is a broad recitation of the feature, nothing requires reading into the claims in order to make sense of the claims from the standpoint of a skilled artisan. Thus, reading the claim in light of the specification is not necessary since there is nothing extraneous to the claimed invention requiring this. See *In re Prater*, 415 F.2d 1393, 1404, 162 USPQ 541, 550 (CCPA 1969). Further in view of this the claims are given their broadest interpretation consistent with the specification. See *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d, 1322 (Fed. Cir. 1989) and *In re Yamamoto*, 740 F.2d 1569, 1571, 222 USPQ 934, 936 (Fed. Cir. 1984).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 and 101-103 insofar as definite are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior Art Figure 1 or Lin (5,721,439).

The prior art, which is admitted to be Figure 8 of the Lin reference teaches the claimed invention. The prior art teaches several island regions of either poly or FOX, etc. Regions 84 and 83 are non-symmetrical in one interpretation and symmetrical in others, depending upon how symmetry of arrangement is set up. See discussion under 35 U.S.C. 112, above. Also region 82, although having a corresponding region are not symmetrical along the gate since 82 is closer to the gate than is region 86. Also region 84 is either symmetrical or non symmetrical with region 81. Looking at Applicant's claims in light of the specification does not clarify this interpretation. Likewise looking at Lin in further detail for discussion of Figure 8 or other figures does not glean any differences. For these reasons, the rejection over Applicant's admitted prior art is made.

Applicant's arguments filed 3-18-03 have been fully considered but they are not persuasive. As discussed above, the claims as newly amended still fail to define over the prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stephen Meier whose telephone number is (703) 308-4896. The Examiner is off on the first Friday of each biweek, however can generally be reached Monday through Friday during normal business hours, including first Fridays of the biweek.

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0956. The fax number for the group is (703) 308-0725.

Meier
April 25, 2003



Stephen D. Meier
Primary Examiner
Art Unit 2822